

HOGAN & HARTSON
L.L.P.

DAVID L. SIERADZKI
PARTNER
(202) 637-6462
DLSIERADZKI@HHLAW.COM

COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004-1109
TEL (202) 637-5600
FAX (202) 637-5910
WWW.HHLAW.COM

March 2, 2006

Marlene Dortch, Secretary
Federal Communications Commission
445 Twelfth St., SW
Washington, D.C. 20554

RE: Federal-State Joint Board on Universal Service [Contribution Proceeding]; CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, and 98-170

Dear Ms. Dortch:

OnStar Corporation (“OnStar”) made two *ex parte* presentations yesterday regarding the proceeding referred to above. Bill Ball and Bonita Lewis Bell of OnStar; and Ari Fitzgerald and the undersigned, counsel to OnStar, met with: (1) Thomas Navin, Thomas Buckley, and Craig Stroup of the Wireline Competition Bureau; and (2) Catherine Seidel, David Furth, Walter Strack, Paul Murray, and Jeffrey Steinberg of the Wireless Telecommunications Bureau. The attached document summarizes the content of the discussion.

If you have any questions, please contact me.

Respectfully submitted,



David L. Sieradzki

Enclosure

cc: FCC staff members listed above

OnStar Corporation Presentation on USF Contributions

I. Telematics Service

Description

- OnStar provides telematics service using transceivers built into GM and other vehicles.
- Telematics is a public safety information service that uses GPS data to provide PSAPs with location information regarding accidents, airbag deployments, and other emergencies in real time.
 - Telematics also enables users in vehicles to access door-unlock service, vehicle diagnostics/monitoring, roadside assistance, directions and other information services.
- The Commission has ruled that OnStar's telematics offering is not within the definition of CMRS and is exempt from E-911 requirements. (18 FCC Rcd 21531, ¶¶ 17-18 (2003)).
 - “[U]nits providing only telematics service cannot transmit and receive commercial wireless calls between the operator of the vehicle and other wireless or wireline end users.”

The Problem

- OnStar telematics uses phone numbers to enable telematics units on vehicles to interact with OnStar call centers.
 - OnStar purchases airtime as “telecommunications” from underlying CMRS carriers.
 - As a telematics provider, OnStar does not contribute directly, but is subject to USF contributions (percent of revenues) passed through as carrier surcharges.
- A per phone-number monthly USF surcharge on OnStar telematics phone numbers would have a devastating impact.
 - OnStar telematics has an extremely low utilization of telecommunications – less than 2 minutes per month per vehicle – relative to the number of phone numbers it has in use.
 - A monthly per-phone number assessment could threaten OnStar's ability to continue providing its public safety and emergency response offering.

Proposed Solutions

- Exempt carriers from paying USF per-number charges (and prohibit USF surcharges) for service provided to telematics providers.
 - An exemption for telematics – as well as for first responders, PSAPs, and other emergency services – would promote public policy, like the existing exemption for Lifeline users.
 - Telematics is not interconnected with the PSTN (and therefore is not a substitute for traditional phone service), and uses phone numbers only for internal purposes.
- In the alternative, USF contributions (and pass-through USF surcharges) for telematics providers (and other organizations with extremely low ratios of telecom usage to phone numbers) could be assessed based on a method other than per-phone number, such as using a percentage of telecommunications revenues based on an “equivalency ratio” adjustment to the monthly per phone number rate.

II. Prepaid Hands-Free Calling Service

Description

- Some of OnStar's telematics subscribers also opt to purchase adjunct prepaid wireless "Hands Free Calling" service, provided over the same transceiver equipment.
 - OnStar acts as a CMRS reseller and directly pays revenue-based USF contributions.

The Problem

- Per-phone number contribution obligation would have a highly disproportionate impact on OnStar prepaid wireless service.
 - A large proportion of users make no calls in any given month, and average usage is less than 10 minutes per month.
 - Prepaid users pay no monthly charges, so OnStar would be unable to pass through monthly per-phone number USF costs as monthly surcharges paid by users.
 - Would be impossible for OnStar to charge based on handsets that are "activated" or that have sent or received a call during a given month.
 - > OnStar does not track customer usage centrally; usage data is stored and decremented on the telematics unit inside the vehicle.
 - > OnStar does not know whether a given user has placed or received a call during a given month.
- Per-phone number contributions probably would force OnStar to discontinue Hands Free Calling offering, which could also discourage use of life-saving telematics technology.

Proposed Solution

- Prepaid wireless services like OnStar's (and others with extremely low ratios of telecom usage to phone numbers) should contribute based on an "equivalency ratio" comparable to contributions paid by other carriers, adjusted either based on revenues or usage.
 - Example: Assess percentage-of-revenues contribution rate for prepaid wireless at a level that is equivalent to the standard monthly per-number rate paid by others.
- Some states have adopted similar methodologies to assess E-911 charges on prepaid wireless.
 - Ohio: Revised Code § 4931.61(A)
 - > Standard assessment to cover cost of wireless E911 is 32¢ monthly per subscriber.
 - > Prepaid subscribers pay percentage equivalent, based on 32¢/\$50 ratio (\$50 = assumed average cellular monthly revenue).
 - > Can be assessed either as a surcharge on usage purchases, or as a monthly reduction to balance of minutes in user's account.
 - North Carolina: Sess. Law 2005-439, revising G.S. §62A-3(b1)
 - > Standard assessment to cover cost of wireless E911 is 70¢ monthly per subscriber.
 - > Prepaid subscribers pay percentage equivalent, based on 70¢/\$50 ratio.



Universal Service Contributions

Presentation by OnStar Corporation

CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, and 98-170

February 8, 2006



OnStar and Its Services

- OnStar is wholly owned by General Motors
 - Factory-installed transceivers are available on full range of GM and other manufacturers' vehicles, and will be standard on GM vehicles by 2008
 - Services are optional
- OnStar provides two main services:
 - (1) "Safe & Sound" Telematics – information services primarily for emergencies/public safety
 - (2) Hands-Free Calling – low-volume, vehicle-based prepaid CMRS – adjunct to core telematics service



(1) “Safe & Sound” Telematics

- About OnStar’s “Safe & Sound” Telematics Service
 - Automatic crash and airbag deployment notification (call centers receive GPS-based location information and crash severity data, and notify emergency responders)
 - Also includes vehicle diagnostics/monitoring, roadside assistance, directions, and other information (e.g., “concierge service”) from call centers
 - Monthly rate is \$16.95
 - 4 million users
 - 1,500 airbag deployments, 12,000 emergencies, 46,000 door-unlocks, 500 stolen vehicle location assists, and 37,000 remote diagnostics per month
 - Uses phone numbers for interaction with OnStar call centers, but subscribers cannot originate or receive PSTN calls
 - Provided using airtime (usage) purchased from wireless carriers



Regulatory Status of Telematics

- FCC has held that OnStar’s telematics service is not CMRS and is not subject to E911 requirements
 - “[U]nits providing only telematics service cannot transmit and receive commercial wireless calls between the operator of the vehicle and other wireless or wireline end users.”
 - “Thus, we find that such telematics units provided by OnStar ... are not within the [CMRS] definition of Section 20.3, and therefore, are not subject to the E911 requirements....”
 - » *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 18 FCC Rcd 21531, ¶¶ 17-18 (2003).
- By contrast, “interconnected VoIP” services can transmit and receive PSTN calls, are marketed as substitutes for PSTN service, and are required to provide E911



(2) Hands-Free Calling Service

- OnStar telematics subscribers may also opt to purchase adjunct Hands-Free Calling service
 - Uses same transceiver as telematics service
 - Treated as CMRS – a wireless resale “telecommunications service”
 - Subject to revenues-based USF contributions
- Prepaid calling service
 - Subscribers pay in advance for a specified amount of usage time
 - Usage is not tracked centrally – decremented on unit in vehicle
 - Relatively low revenues per user – about 60% of subscribers make no calls in any given month



No USF Assessments on Telematics Services

- Telematics service should not pay direct or indirect numbers-based contributions
 - Telematics is “information service,” not “telecommunications”
 - Telematics is not interconnected with the PSTN; can be used only for internal purposes (subscriber interaction with call center information and other applications), and does not allow users to dial 911
 - Telematics does not compete with or substitute for telecom
 - OnStar does not purchase “connections” or numbers from wireless carriers
 - Wireless carriers assign phone numbers to OnStar (as NANPA agents), but service OnStar buys is based on usage



USF Assessments on OnStar Hands-Free Calling Service

- Hands-Free Calling service is telecommunications and should contribute to USF
- But an alternative to numbers-based assessments is needed for prepaid wireless services like OnStar's
 - OnStar does not and cannot bill prepaid subscribers monthly
 - OnStar has no centralized info on each subscriber's usage
 - About 60% of subscribers have no usage in any given month
 - Impossible for OnStar to charge based on handsets that are "activated" or that have sent or received a call during a given month
 - A monthly numbers-based USF assessment would have a proportionally much greater impact on OnStar as compared to other wireless carriers
 - OnStar's revenues per user are much lower than post-paid wireless service
 - Cf. paging service: existing "safe harbor" rule, and proposals in the 2002 FNPRM and in the record, recognize revenue disparities and would impose lower charges per paging phone number (or handset)



“Equivalency” Alternative to Numbers-Based Plan

- Prepaid wireless services like OnStar’s should pay revenue-based contribution equivalent to monthly amount per wireless number
 - *E.g.*, assume average monthly cellular revenue per customer is \$50, and monthly per-number assessment is \$3
 - Equivalency rule would require OnStar to pay USF contribution of $\$3/\50 (=6%) of prepaid revenues
- OnStar could pass through as percentage surcharge when subscribers pay to add usage to their accounts



State Law Precedents for “Equivalency” Proposal

- Ohio: Revised Code § 4931.61(A)
 - Conventional wireless subscribers pay 32¢ monthly surcharge to cover cost of wireless E911
 - Prepaid subscribers pay percentage equivalent, based on 32¢/\$50 ratio (\$50 = average cellular monthly revenue)
 - Can be assessed either as a surcharge on usage purchases, or as a monthly reduction to balance of minutes in user’s account
- North Carolina: Sess. Law 2005-439, revising G.S. §62A-3(b1)
 - Conventional wireless subscribers pay 70¢ monthly surcharge to cover cost of wireless E911
 - Prepaid subscribers pay percentage equivalent, based on 70¢/\$50 ratio